

## Engineering Circular No. 102

NO :ENG/PSC/MEETING/05	Dated 18.05.2009
<b>SUB :- PROCEDURES FOR DEALING WITH PORT STATE CONTROL DETENTIONS OF INDIAN VESSELS.</b>	
<p>We are all aware that when an Indian ship is detained abroad, it not only affects the commercial priorities of the company but also projects the Indian flag in very poor light. Not very long ago, the Indian flag was relegated to the black-list of the IMO and even now the status of the Indian flag vessels is not quite comfortable with various MOUs. Since long therefore, the Directorate General of Shipping (DGS) which is under an obligation under the UNCLOS and the M.S. Act to exercise control over Indian flag ships, has considered it necessary to streamline the procedure subsequent to a vessel being detained abroad as a sequel to a Port State Control (PSC) intervention. It is envisaged that, inter alia, these procedures shall help the ship-owners in following the steps subsequent to their vessel being detained abroad and, the long-term measures they need to take so that such detentions are not repeated in their fleet. It is anticipated that the Indian flag would thereby be spared the threat of being re-relegated to the "Black List".</p> <p>All terms used hereunder are as defined in the applicable international Conventions for the implementation of which relevant authorization has been given to Recognized Organization(s) (i.e. ROs), as well.</p> <p>When an Indian flag ship is detained abroad, the registered ship-owner (whether through the Master or otherwise), is obliged to inform the Port State Control Cell of the DGS (Tel. No.:91-22-22633065 Fax no.:91-22-22651368 E-mail: <a href="mailto:psc@dgshipping.com">psc@dgshipping.com</a>, <a href="mailto:mehrotra@dgshipping.com">mehrotra@dgshipping.com</a>; <a href="mailto:gadkar@dgshipping.com">gadkar@dgshipping.com</a>) at the earliest and not later than 24 hours from the time of such detention, giving the reasons and circumstances which led to such detention, with "legible and authenticated" documentary evidence(s). While conveying such information, the ship owner must comment whether it considers such detention / banning as justifiable in the light of the PSC guidelines issued by the IMO; why such deficiencies could not be detected/rectified during the last Company Initiated Inspection carried out by the ship-owner/manager as required by the ISM Code, and, what action has been taken by the vessel's Master in accordance with the PSC guidelines in case it was firmly felt that such detention / banning was unwarranted. The Port State Control Cell of the Directorate would then forthwith analyze the justification / merits of such detention and if found necessary, following procedures will be followed:-</p> <ol style="list-style-type: none"><li>1. <u>Procedures after Detention</u><ol style="list-style-type: none"><li>1.1 Procedures after 1<sup>st</sup> detention<ol style="list-style-type: none"><li>1.1.1 When an Indian flag ship is detained for the first time, the registered ship-owner (whether through the Master or otherwise) is obliged to inform the DGS and the concerned RO, giving the details of the deficiencies and the steps taken by the Master to address the situation. While informing the DGS, the ship-owner must also indicate the date and time (as in India), when the vessel "ought to" or "would have sailed", had the vessel not been so detained. Depending on the nature of deficiencies, necessary action will be taken by the DGS and communicated to the ship-owner at the earliest. Only on receipt of such communication from the DGS should the vessel sail out from the port of detention.</li><li>1.1.2 If the ship-owner is unable to inform the DGS within the stipulated period and the vessel sails after rectification of deficiencies to the satisfaction of the detaining Administration, she is not to sail from the next port of call until an additional SMC (i.e. shipboard) audit and FSI (i.e., inspection under Flag State Implementation) is carried out by the Recognized Organization (R O), or as may be otherwise advised by the DGS. Such an audit shall meticulously address all elements of the ISM Code, with special focus on the aspects in which the majority of the deficiencies have been observed. The findings of the audit and the FSI inspection shall be evaluated by the PSC Cell of the DGS, subsequent to which the ship-owner shall be informed of the decision of the DGS as regards her feasibility of undertaking sailing or not. Only on receipt of such information, the vessel may sail out from such port.</li></ol></li></ol></li></ol>	

## 1.2 Procedures after 2<sup>nd</sup> Detention

1.2.1 When an Indian flag ship is detained the second time within two years (as from the date of second detention counting backwards), the case shall be brought to the notice of the PSC Cell of the DGS by the registered ship-owner (through the Master or otherwise). The PSC Cell shall bring this to the notice of the Director-General of Shipping, and, irrespective of the detaining authority / MOU, the following surveys must be carried out, before the vessel sails from such port of detention :-

1.2.2 If the date of the detention falls within the (plus or minus) 3 - month's window period for the annual survey(s) pertaining to the Convention(s) / Code(s) on which deficiencies have been observed, such surveys must be completed, before the ship sails from such port of detention. An additional copy of the report of such surveys is to be communicated by the RO to the PSC Cell of the DGS immediately, as soon as such surveys are completed.

1.2.3 If the date of the detention falls within the entire stipulated window period for the periodical / intermediate(s) pertaining to the Convention(s) / Code(s) on which deficiencies have been observed, such surveys must be completed, before the ship sails from such port of detention. An additional copy of the report of such surveys is to be communicated by the RO to the PSC Cell of the DGS immediately, as soon as such surveys are completed.

1.2.4 If the date of the detention does not fall within any window period, after clearing the PSC deficiencies the vessel is to be put up for general examination, by Surveyor(s) as may be decided by the DGS, and in the presence of the ship-owner's competent representative. Such Surveyor(s), by using their professional judgment shall decide whether additional in-depth surveys are required or not. In cases where the Surveyor(s) deems that a more in-depth survey is needed, the same shall be carried out with the concurrence of the DGS, before the ship sails from the port of detention, the scope / extent of such surveys being as required for "annual surveys".

1.2.5 If during the surveys carried out above, it becomes apparent to the DGS / RO that the Safety Management System(SMS) on board is not properly implemented, the following actions shall be taken :-

1.2.5.1 Depending on the nature of deficiencies, DGS may depute a Flag State Surveyor / auditor, in addition to the RO.

1.2.5.2 If only the RO is carrying out the survey, the attending surveyor shall inform its Head Office of the findings. In case the RO's Head Office, having assessed the findings, deems that an additional audit is necessary, it shall notify the DGS and proceed as soon as possible to conduct the additional audit of the SMS on board and inform the Directorate of the results, immediately. The DGS is also to be notified even if the RO does not consider it necessary to have an additional audit carried out. In either case the RO may justify its conclusions, while notifying the DGS.

## 1.3 Procedures after 3<sup>rd</sup> or more Detentions :-

1.3.1 When an Indian flag ship is detained for the third time or more, within two years (as from the date of the last detention counting backwards) irrespective of the detaining authority / MOU, the PSC Cell of the DGS is to be notified forthwith by the registered ship-owner. The PSC Cell shall then communicate this to the Director-General and further necessary action will follow as may be decided on by the Director-General of Shipping, based on the merits of the case.

Under no circumstances the vessel should sail from the port of detention, unless the ship-owner or the Master of the vessel, received a formal communication to such effect from the DGS.

## 2. Procedures for Banned Ships

When an Indian flag ship is banned by a certain MOU, the following procedure is required to be followed, provided the DGS considers such banning to be justifiable :-

2.1 All Survey(s) to the extent of renewal surveys shall be carried out, in the areas in which serious deficiencies have been observed.

2.2 An additional audit of the company's shore based operations (i.e. DOC), as applicable for the relevant ship-type, shall be carried out by the Flag State auditors. The audit shall address all elements of the ISM Code and, particularly the extent of its effective implementation.

2.3 Flag State & R.O. shall carry out an additional SMC (shipboard) audit.

2.4 Findings of such surveys and audits and decision taken thereon by the DGS, shall be

communicated to the ship-owner, without delay.

3. Detention during weekends

In case a vessel is detained during a weekend and she is expected to sail before the end of the said weekend, the ship-owner may approach the in-charge of the PSC Cell of the Directorate and the DG-COM CENTRE (022-22610606/22614646), with all factual details, so that a temporary decision can be conveyed to the ship-owner.

Sd /-

( D. Mehrotra )

Dy. Chief Surveyor cum Sr. DDG (Tech)